

REMARKS

Claims 34-37 and 39-40 have been amended so that monoclonal antibody H425 is identified as being a monoclonal antibody produced by the hybridoma cell line having ATCC Accession No. PTA-9498.

I. Correction of Inventors under 37 CFR §1.48(b)

In the Office Communication mailed January 29, 2008, the Examiner stated that Applicants' previous request to correct inventorship under 37 CFR 1.48(b) was not considered since Applicants failed to file a separate petition for removal of inventors. Applicants note that a separate Petition to Correct Inventorship Under 37 CFR 1.48(b) was filed with the USPTO on February 8, 2008.

II. ATCC Deposit of Antibody H425

The Examiner has rejected claims 34-37 and 39-40, stating that the H425 antibody is required to practice the claimed invention, and as such, it must be available to the public or obtainable by a repeatable method set forth in the specification. The Examiner further states that deposit of the cell line / hybridoma which produces the H425 antibody would satisfy the requirements of 35 USC § 112, first paragraph, and would thus render claims 34-37 and 39-40 allowable.

Applicants note that the hybridoma cell line that produces monoclonal antibody H425 has been deposited with the ATCC, said cell line being assigned the Patent Deposit Designation PTA-9498. Applicants are submitting herewith a copy of the Certificate of Deposit verifying this deposit, as well as a Declaration stating that the hybridoma cell line deposited with the ATCC is the hybridoma cell line that produces the monoclonal antibody identified as H425 in the instant specification. Consequently, Applicants have amended the claims so that reference to monoclonal antibody H425 has been replaced with the appropriate ATCC Accession Number. Applicants hereby state that all restrictions imposed by Heska Corporation ("depositor") on the availability to the public of the deposited material will be irrevocably removed upon the granting of a patent in U.S. Patent Application Serial No. 10/550,563. In view of the above-mentioned deposit and the related amendments to the claims, Applicants request withdrawal of the rejection under 35 USC § 112, first paragraph.

CONCLUSION

All of the pending claims are believed to be in condition for allowance. In the event the Examiner has any questions regarding this Application, the Examiner is invited to contact the undersigned representative at (970) 493-7272 ext. 4174.

Respectfully submitted,

Dated: October 15, 2008

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